Radio One, Citadel and Cumulus have owed much of their dramatic growth to their ability to move exurban stations into central cities. By allowing more stations to follow this example, our proposal would enable the radio industry to increase its 8% share of media advertising.

Third, the introduction of new urban move-ins would also allow some clusters to grow in size, since the number of voices in the market could increase as stations just outside Arbitron markets move into these markets.202/ This will not be regarded by everyone as a plus factor, but it does ensure that all types of licensees, large and small, would have a chance to benefit from this initiative.

Fourth, rural areas would be poised to receive new full power and LPFM allotments tailored to meet their needs. By freeing up rural spectrum, these move-ins would create openings for new rural facilities, thereby advancing the goals of Section 307(b) far more efficiently than continuing to indulge the fiction that an unincorporated exurban crossroads is actually going to be "served" by a high powered full market station.203/

Fifth, the new rural stations created by freeing up rural spectrum would provide much-needed low cost entry opportunities for new and local entrepreneurs. The auction rules already provide significant incentives for new entrants.204/ New rural allotments could be just what's needed to enable new entrants -- including the many well trained minority and female broadcast managers ready to make the transition into ownership205/ -- to find stations of their own.

Sixth, and dear to our hearts, this new community of license and transmitter site policy would yield very substantial gains in minority and SDB ownership. Minorities own a

---

202/ See p. 38 supra (proposing that "a licensee whose station is not in an Arbitron market, yet draws the majority of its listeners from an Arbitron market, should be allowed to relocate to any community in that market if, in doing so, it does not violate the interference rules.")

203/ See p. 40 and n. 197 supra (pointing out the awkward fact that radio stations don't have to address needs specific to their community of license crossroads).

204/ First, however, a serious defect in the rules must be corrected. See MMTC Petition for Reconsideration in MB Docket 95-31 (Reexamination of the Comparative Standards for Noncommercial Educational Applicants) (filed June 16, 2003) (pointing out that as the auction rules are written now, a company can claim to be entitled to bidding credits, then immediately change its structure to remove the attributes that entitled it to the bidding credits, and still use the undeserved bidding credits in the auction. This loophole reflects a sub silentio and rather startling abandonment of the Commission's decades-old policy requiring comparative downgrades in new construction permit proceedings. The loophole would remove any comparative advantages flowing from bidding credits held by legitimate small businesses.)

205/ Over the past five years, the NAB's Broadcast Leadership Program has produced about 100 graduates, each of them a broadcast manager who upon graduating is qualified to own broadcast stations. Most of the graduates of this excellent program are minorities and women. The majority are out looking for stations to buy, but very few have found stations for sale at any price.

disproportionate number of stations able to take advantage of the chance to move in to a large market. The reasons for this are well understood.206/ The most desirable AM stations signed on during the 1920s through 1950s, and their FM counterparts signed on between the 1950s and the 1960s. Virtually no minorities were broadcast owners until the mid-1970s, however. In 1973, when TV-9 was decided and minority ownership got its first boost,207/ minorities owned only ten radio stations (and one television station) in the entire nation. In 1978, when the 1978 Policy Statement was adopted, minorities owned only 59 radio stations (and one television station). Thus, by the time minorities had a chance to enter the business, the big-stick and heritage stations were already owned by others. After minorities entered the business, they almost never had a chance to buy these highly desirable stations. Big-stick and heritage stations licensed to large population centers are linchpins of the holdings of large nonminority owned companies, which do not sell them except as spinoffs to comply with the multiple ownership rules attendant to a merger.208/ As a result of this and other factors,209/ minorities were only able to buy or build less desirable suburban and exurban stations.

The weight of this history is reflected today in the holdings of today's minority owned companies. In the top 50 markets, minority owned FM stations are only 63% as likely as nonminority owned FM stations to be located in the dominant community in the market.210/

206/ The circumstances that caused minority broadcasters to be saddled with secondary service and be deprived of large city big-stick and heritage stations are detailed in the Radio Ownership Comments, p. 93-99.

207/ TV-9, Inc. v. FCC, 495 F.2d 929 (D.C. Cir. 1973), cert. denied, 418 U.S. 986 (1974).

208/ See Ofori Statement, §6.

209/ These include the Commission's many actions that facilitated intentional discrimination (Initial Comments, pp. 19-35), lack of access to capital (id., pp. 32-33) and not hearing about good deals until it is too late to bid (id., pp. 37-38).

210/ See "Minority And Nonminority Commercial Radio Owners' Holdings In The Top 50 Markets," MMTC, September 4, 2003 (Annex 4 hereto), p. 5 (finding that "[m]inority owned FM stations' community of license designations are substantially less attractive than those of nonminority owned FM stations. In particular, only 24.1% of the minority owned stations were licensed to the dominant community in the market, while 38.2% of the nonminority owned stations were licensed to the dominant community in the market. Thus, minority owned stations were only 63% as likely to be licensed to the dominant community in the market as were the nonminority owned stations in the same markets. A chi-square analysis proved statistically significant at well below the 0.01 level of significance.") There was no statistical disparity between the community of license designations for minority and nonminority owned AM stations; however, minority owned stations still tend to occupy the less desirable high end of the AM band. See Consolidation and Minority Ownership, supra, pp. 15-18.

Further, minorities tend to own AM and FM stations with weaker signals211/ -- a critical deficiency since the opportunity to transmit from the center of a market's population is essential to the competitiveness of a lower powered station. Ironically, Jim Crow residential segregation has disproportionately locked minority radio listeners into the inner cities, while the equally strange fruit of broadcast licensing discrimination has disproportionately locked minority broadcasters into the suburbs. Relaxation of the community of license and transmitter site rules would do much to repair this historical damage by enhancing the value of the holdings of minority owners. On top of this, as noted above, the creation of new rural allotments from freed-up rural spectrum would provide ownership opportunities for new entrants, including minority managers ready to buy or build their first stations.212/

This proposal would have many beneficiaries while cognizably harming no one.213/ The Commission should move enthusiastically to embrace this means of building the radio industry's value, efficiency, diversity, competition and minority participation.

V. The Commission Should Review The Potential Applicability Of Grutter v. Bollinger To Its Broadcast Ownership Jurisprudence

On June 23, 2003, the Supreme Court held that "student body diversity is a compelling state interest that can justify the use of race in university admissions."214/ Some of the nation's most distinguished broadcasters were amici for the University of Michigan in Grutter.215/

211/ Id., finding that minority owned broadcasters are disproportionately likely to own Class A FM stations. In 2001, 53% of minority owned FM stations were Class A, while 40% of nonminority owned FM stations were Class A. Thus, minority owned FM stations were 32% more likely than nonminority owned FM stations to be Class A. See Consolidation and Minority Ownership, supra, p. 18. Further, in 2001, 34% of minority owned AM stations had frequencies of 1410 kHz or more, while 28% of nonminority owned AM stations had frequencies of 1410 kHz or more. Thus, minority owned AM stations were 21% more likely than nonminority owned AM stations to have a frequency of 1410 kHz or more. Id., p. 16.

212/ See p. 42 supra.

213/ To be sure, not every company will benefit in the short run if this proposal is granted; inevitably, some companies will face more competitors. But that is not a "harm" that the Commission has recognized since 1982, when it repealed the Carroll doctrine. See Policies Regarding Detrimental Effects of Proposed New Broadcast Stations on Existing Stations (R&O), 3 FCC Rcd 638, 640 (1988) (deciding to rely on market forces to promote competition, and therefore abandoning the notion of "ruinous competition" expressed in Carroll Broadcasting Co. v. FCC, 258 F.2d 440 (D.C. Cir. 1958)).

214/ Grutter, 123 S.Ct. at 2337. Even before Grutter was handed down, it was possible to design a contracting plan tailored to remedy past discrimination. See Adarand Constructors, Inc. v. Slater, 228 F.3d 1147 (10th Cir. 2000), certiorari dismissed as improvidently granted sub nom. Adarand Constructors, Inc. v. Mineta, 534 U.S. 103 (2001). The underlying DOT program was defended in the Supreme Court by Solicitor General Olson.

215/ These included Emmis, General Electric, Granite, Hispanic Broadcasting Corp., LIN Television, MTV Networks, Radio One, Susquehanna, and The YES Network. No media company filed in opposition to the University.

Grutter has profound and promising implications for broadcast regulation, since the purpose of diversity in higher education is closely analogous to diversity in broadcasting. Justice O'Connor's opinion in Grutter cited with approval Justice Powell's invocation, in Bakke, of "our cases recognizing a constitutional dimension, grounded in the First Amendment, of educational autonomy[.]"216/ Her opinion cites with approval Justice Powell's conclusion in Bakke that by claiming "the right to select those students who will contribute the most to the 'robust exchange of ideas,'" a university "seeks to achieve a goal that is of paramount importance in the fulfillment of its mission."217/ Further, Justice O'Connor 's opinion pointed to the importance of "diminishing the force of...stereotypes" as "both a crucial part of the Law School's mission, and one that it cannot accomplish with only token numbers of minority students."218/

This promotion of the "robust exchange of ideas" and "diminishing the force of...stereotypes" are exactly the purposes of the Commission's policies that promoted minority ownership.219/ Perhaps there are some industries for which racial diversity might not inevitably lead to a better product.220/ Nonetheless, if there is any industry for which racial diversity in employment and ownership unquestionably produce a better product, broadcasting is that industry. Just as racial diversity in the classroom promotes competitiveness and quality in business, racial diversity in broadcasting promotes competitiveness and quality in the programming that sustains the well informed populace that is essential to democracy. Minority ownership impact viewpoint diversity in three ways:

216/ Id. at 2339.

217/ Id., citing Regents of the University of California v. Bakke, 438 U.S. 265, 313 (1978) ("Bakke") (quoting Keyishan v. Board of Regents of Univ. of State of N.Y., 385 U.S. 589, 603 (1967)).

218/ Grutter, 123 S.Ct. at 2341.

219/ Metro Broadcasting, Inc. v. FCC, 497 U.S. 547, 556 (1990) ("[a]dequate representation of minority viewpoints in programming serves not only the needs and interests of the minority community, but also enriches and educates the non-minority audience. It enhances the diversified programming which is a key objective not only of the Communications Act of 1934...but also of the First Amendment"); see also Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities (NPRM), 10 FCC Rcd 27887 ¶1 (1995) (purpose of developing new minority ownership initiatives "is to further the core Commission goal of maximizing the diversity of points of view available to the public over the mass media, and to provide incentives for increased economic opportunity" (fn. omitted)).

220/ See NAACP v. FPC, 425 U.S. at 670 (where the public interest standard in the Power and Gas Acts were "a charge to promote the orderly production of plentiful supplies of electric energy and natural gas at just and reasonable rates" and a court could find that an EEO rule might not advance that objective).

First, minority ownership is by far the largest incubator of minority employment221/ -- a proven diversifier of viewpoints through the interactions of employees within a station.222/ The impact of racial diversity in broadcast employment has been profound; indeed, the entry of people of color into the world of broadcasting may have done more than any other trend in the past two generations to improve the quality of what viewers see and what listeners hear. The all-White "Mickey Mouse Club" seems quaint now when compared to the bold and highly effective initiatives of the modern ABC-TV, from its hiring of Mal Goode as its U.N. correspondent in 1962, to its choice of Max Robinson as a co-anchor for World News Tonight in 1978, to the multiracial cast of Cinderella in 1997. Without racial diversity, the Fox, UPN and WB networks might never have survived. Nobody misses the poor quality of what passed for journalism on Jackson, Mississippi's WLBT-TV in 1955.223/

Second, minority ownership enhances diversity of viewpoints by bringing the station owner's perspective to the airwaves on her station. Station owners are expected to decide what goes out over the air.224/ Research, including the Commission's own research, shows that minority ownership significantly influences programming decisions.225/

Third, minority ownership enhances diversity on stations owned by nonminority broadcasters who interact with, respect and learn from their minority counterparts. Just as racial interaction within a broadcast station influences the way the station programs to its community, the interactions among minority and nonminority owners, each with its own perspective on the world, helps make a multiplicity of viewpoints available to the public. Broadcast station owners constitute one of the most exclusive and influential clubs in the American polity. Station owners

---

221/ See EEO Supporters Comments in Docket 98-204, supra, p. 53 n. 124 (reporting that 52% of minorities in radio work at minority owned stations).

222/ NAACP v. FPC, 425 U.S. at 670 n. 7 (observing that the FCC's broadcast EEO rules "can be justified as necessary to satisfy its obligation under the Communications Act of 1934...to ensure that its licensees' programming fairly reflects the tastes and interests of minority groups.")

223/ See Office of Communication of the United Church of Christ v. FCC, 359 F.2d 994, 998 (D.C. Cir. 1966).

224/ See TV-9, 495 F.2d at 938 ("it is upon ownership that public policy places primary reliance with respect to diversification of content, and that historically has proven to be significantly influential with respect to editorial comment and the presentation of news" (fn. omitted)).

225/ These studies are collected in the Initial Comments, pp. 69-71, in the Supplemental Comments of Diversity and Competition Supporters (January 27, 2003), Exhibit 1, and Reply Comments at 9 n. 15.

gather in local ad councils, at local, state and the national associations of broadcasters, at professional conferences, and in local and national charitable and service organizations like the Broadcasters Foundation and the Emma Bowen Foundation for Minority Interests in Media. In these venues, broadcasters convene as equals, exchanging information and forming and refining their viewpoints. When those viewpoints find expression in broadcast programming, they become the greatest single influence on the direction and quality of democracy in our nation.

As Grutter reminds us, the inclusion of a critical mass of minorities in a classroom would show that the views of minorities are not monolithic.226/ Public awareness of the diversity of views held by minorities will lead to a stronger democracy and "a more perfect union."227/ Therein may reside the greatest value to democracy that racial diversity in broadcast ownership has to offer.

The NPRM in this proceeding asked whether the Commission could initiate race-conscious programs without falling afoul of the constitution.228/ Recognizing this, we offered only race-neutral proposals in our Comments.229/ Fortunately, Grutter amply justifies the conclusion that promoting racial diversity in broadcasting is a compelling state interest; and that narrowly tailored means that modestly consider race are constitutionally permissible. Armed with this finding, the Diversity Committee's charge can be expanded to include the option of developing narrowly tailored, constitutionally permissible means of advancing racial diversity in broadcast ownership.

226/ Grutter, 123 S.Ct. at 2334 (citing expert testimony that "indicated that when a critical mass of underrepresented minority students is present, racial stereotypes lose their force because nonminority students learn there is no 'minority viewpoint' but rather a variety of viewpoints among minority students.")

227/ U.S. Constitution, Preamble.

228/ NPRM, 17 FCC Rcd at 18521 ¶50 and n. 123.

229/ We noted, however, that "[t]ime may reveal that the race-neutral initiatives advocated in these Comments are inadequate." Initial Comments, p. 80.

Respectfully submitted,[230/]

David Honig

David Honig
Executive Director
Minority Media and
Telecommunications Council
3636 16th Street N.W., Suite B-366
Washington, D.C. 20010
(202) 332-7005
dhonig@crosslink.net

Counsel for Diversity and
Competition Supporters

September 4, 2003

230/ The Diversity and Competition Supporters appreciate the research assistance of MMTC's Earle K. Moore Fellows, Fatima Fofana, Esq. and Julie Smith, Esq.

ANNEX 1

DIVERSITY AND COMPETITION SUPPORTERS

American Hispanic Owned Radio Association
Civil Rights Forum on Communications Policy
League of United Latin American Citizens
Minority Business Enterprise Legal Defense and Education Fund
Minority Media and Telecommunications Council
National Asian American Telecommunications Association
National Association of Latino Independent Producers
National Coalition of Hispanic Organizations
National Council of La Raza
National Hispanic Media Coalition
National Indian Telecommunications Institute
National Urban League
Native American Public Telecommunications, Inc.
PRLDEF-Institute for Puerto Rican Policy
UNITY: Journalists of Color, Inc.
Women's Institute for Freedom of the Press

ANNEX 2

STATEMENT OF KOFI OFORI

I, Kofi A. Ofori, state as follows:

I am the President of Ofori & Associates, a consulting firm that provides legal and business development services to broadcast companies and entrepreneurs. I founded the company in 1985. We develop business strategies and business plans, and conduct economic and marketing assessments of broadcast markets. My practice also involves representing clients before the FCC.

I earned my B.A. degree in 1973 from Tufts University, with a major in political science. In 1976, I earned my J.D. degree from Boston University School of Law. Among my principal publications are: *Blackout! Media Ownership Concentration and the Future of Black Radio*, Medgar Evers College Press, (1997); *When Being No. 1 is Not Enough: the Impact of Advertising Practices on Minority-Owned and Minority-Formatted Broadcast Stations*, Civil Rights Forum on Communications Policy (1999); *The Value of Tax Certificates*; 51Federal Communications Bar Journal, 553 (1999); *In the Black: African-American Web Entrepreneurs*, Reinventing Minority Media for the 21st Century, The Aspen Institute (2001); and *Radio Local Market Consolidation and Minority Radio Ownership*, Minority Media and Telecommunications Council (2002).

I am providing this statement at the request of the Diversity and Competition Supporters (MMTC et al.)

I. If the FCC allows the new rules to take effect before it adopts rules designed to promote minority ownership, what will be the consequences for minority broadcasters?

Based upon past history, minority broadcasters are likely to lose market share if steps are not taken to level the competitive playing field between minority and better-financed non-minority competitors. As discussed below, minorities lack the capital to take advantage of the measures proposed in the Commission's *Report and Order*.[1]

The *Report and Order* professes to advance the goals of competition, diversity and localism, yet it undermines those goals by failing to take adequate steps to promote minority ownership. As reported in a study commissioned by the FCC in 1999, [2] minority ownership is empirically linked to localism and diversity of viewpoint as expressed in news and public affairs programming.[3] In light of the record of this proceeding,[4] it is inconsistent with the Commission's pro-diversity goals to permit the rules to take effect without first taking practical steps to promote minority ownership.[5]

Recent history has shown that minority broadcasters are constrained by lack of capital and unable to take advantage of opportunities to acquire new stations under relaxed ownership rules. Two reports commissioned by

1 Report and Order, *In the Matter of* 2002 Biennial Regulatory Review, FCC 03-237 (released July 2, 2003) ("*Report and Order*").

2 Christine Bachen *et al.*, Santa Clara University, *Diversity of Programming in the Broadcast Spectrum: Is there a Link between Owner Race or Ethnicity and News and Public Affairs Programming?* (1999).

3 The Santa Clara University study found that substantially more minority owned stations cover news stories differently from their chief competitors. *Id.*

4 The study by Santa Clara University is part of the record of the instant proceeding. *See* Reply Comments of MMTC, Appendix 1, *Radio Local Market Consolidation and Minority Ownership* by Kofi A. Ofori. May 8, 2002, in response to the Notice of Proposed Rulemaking, 17 FCC Rcd 18503 (2003).

5 The Commission has elected to explore proposals to advance female and minority ownership in a separate proceeding that will address whether they can withstand judicial scrutiny. *Report and Order*, ¶50. However, as the Commission notes, several studies have already been completed that document discriminatory market entry barriers. *Report and Order*, n. 70. In addition, many of the pro-minority proposals submitted by MMTC are not race specific and therefore not subject to strict judicial scrutiny.

the FCC confirm that minority broadcasters operate in a discriminatory capital market.[6] Second, minority broadcasters have lost while non-minority competitors have gained market share as a result of deregulation. For example:

TV-Radio Crossownership and TV Duopolies: There is an inverse relationship between the change in the total number of television stations and the change in the number of minority owned stations. The number of full power commercial television stations increased 14.4% from 1,176 in 1995 to 1,345 in 2003.[7] During the same period, the number of stations owned by minorities declined 60% percent from 38 to 22. [8] Many of these 22 stations are marginally profitable. From 1993 through 1999, the average television station revenues of non-minority stations were almost triple those of minority stations.[9] The number of minority owners between 1998 and 2000 also declined from 16 to 12.[10] The decline in minority ownership has been attributed to the Commission's 1999 decision[11] to relax its duopoly rule and its "one-to-a-market rule." According to NTIA, "consolidation [has had a] detrimental impact upon the ability [of minority owners] to effectively compete against better financed non-minority group station owners."[12] Indeed, to date no minority entrepreneur has succeeded in acquiring a duopoly or a radio/television combo. Past developments are a clear indication that policies favoring triopolies and greater numbers of radio/television combinations further threaten the survival of minority ownership. Lack of access to capital has created a barrier to expansion in the past and will likely continue to prevent minorities from receiving any benefits from the measures that the Commission contemplates implementing.

National Cap. Minorities have yet to reach the pre-1996 Telecommunications Act threshold of 25% much less the new cap of 45%. Granite Broadcasting, the largest minority-controlled television broadcaster, reaches a 6% national audience.[13] Granite has been in operation since 1993. Given the past performance of minority television broadcasters, it is unlikely that minorities will benefit from the 45% cap.

Newspaper-Broadcast Crossownership. In 2002, there were an estimated 1,457 daily newspapers in the U.S.[14] The dearth of minority viewpoints expressed in these dailies is reflected by the fact that minorities comprise only 9.9 percent of all newsroom supervisors compared to over 30% of the American population.[15] The number of

---

6 W. Bradford, *Discrimination in Capital Markets, Broadcast/Wireless Spectrum Service Providers and Auction Outcomes* (December 2000), ("*Discrimination in Capital Markets*") (Minority broadcast license holders were less likely to be accepted in their application for debt financing....Minority borrowers paid higher interest rates on their loans). Ivy Planning Group, *Whose Spectrum is it Anyway? Historical Study of Market Entry Barriers and Changes in Broadcast and Wireless Licensing, 1950 to Present* (December 2000), *("Whose Spectrum is it Anyway")*.

7 Federal Communications Commission at http://www.fcc.gov/mb/audio/totals/ accessed August 27, 2003.

8 Figure based upon the number of minority stations reported for the year 2000 , *Changes, Challenges and Charting New Courses: Minority Commercial Broadcasting Ownership in the United States,* National Telecommunications and Information Administration, U.S. Department of Commerce (December 2000) (" *Changes & Challenges*"), at 45.

9 *Id.* at 47.

10 *Id.* at 45.

11 *Report and Order, In the Matter of the Commission's Regulations Governing Television Broadcasting and Television Satellite Stations Review of Policy and Rules*, 14 F.C.C. Rcd 12, 903 (1999).

12 Changes & Challenges. at 32.

13 Granite Broadcasting Corporation at http://www.granitetv.com/gbc/gbcstations.htm accessed August 27, 2003.

14 Newspaper Association of America at www.naa.org/info accessed August 27, 2003, *citing* Editor and Publisher magazine.

15 26th Annual Newsroom Census conducted by the American Society of Newspaper Editors. *See* www.asne.org accessed August 27, 2003.

dailies owned by minorities is estimated to be less than 10 (*i.e.* 2 African American, 6 Hispanic (mainland), and 2 Puerto Rican dailies[16]). Thus, it is unlikely that any significant amount of news and editorial viewpoints written by and about minorities will be expressed in the large non-minority dailies that are financially positioned to acquire newspaper-broadcast crossownerships. Dailies owned by minorities are unlikely to be the first to participate in newspaper-broadcast crossownerships due to the lack of adequate capital.

The new rules, therefore, will favor non-minorities who in the past have locked up prized media properties through horizontal crossownership and vertical integration. The Commission has sought to safeguard the interests of diversity and competition by permitting the sale of grandfathered "above-cap" combinations to "eligible" small businesses.[17] This measure is a welcomed exception to the rule generally banning the transfer of such combinations. However, the success of this exception rule will turn on the financial capacity of minorities to take advantage of it. The *Report and Order* duly noted 13 pro-minority initiatives proposed by MMTC, which will be incorporated into a new Notice of Proposed Rulemaking. The Commission, however, appears not to understand that by segregating the minority initiatives, there will be a significant time delay – perhaps years – before an complete solution (*i.e.* one that addresses regulatory and financial incentives) can be implemented. As a consequence, non-minorities will enjoy a substantial headstart, unless the new rules are implemented in stages that take into consideration measures that will be adopted in the minority broadcaster proceeding.

Staged implementation of the rules has been recommended by the Diversity and Competition Supporters and also Paxson Communications. This recommendation is justified by the fact that most minority owned companies are small, and few of them have a fulltime business planner on staff or on retainer. Indeed, only a few minority owned companies are large enough to employ a corporate comptroller fulltime. Consequently, when new ownership rules are announced by a regulatory agency, small companies generally will need more time than other companies to adjust their business plans and strategies, seek new sources of funding, and perform the extensive entrepreneurial work required to seek out and pursue new acquisition opportunities. These activities require extensive management time, and a small company is often preoccupied with just staying afloat day to day. They cannot "turn on a dime" when the FCC changes its rules. The Diversity and Competition Supporters have referred to this as "shock effect" and that characterization accurately captures what happens to small companies when regulatory change occurs overnight. This "shock effect" could be overcome if the FCC elected to deregulate gradually and methodically.

The new ownership rules, as presently structured, will cause some investors to doubt whether minority broadcasting has the potential for growth, because of the relative advantages conferred on nonminority broadcasters. The *Report and Order* fails to take low-cost, high-impact steps that could have helped minority entrepreneurs (*e.g.* prohibiting transactional discrimination). If investor confidence in minority broadcasting lags significantly, we can expect further constraints on the already severe and well-documented lack of access to capital faced by minority broadcasters.[18]

2. What are likely to be the racial compositions of the class known as "eligible entities" in the FCC's Report and Order and defined as "economically and socially disadvantaged businesses" in Senator McCain's Telecommunications Ownership Diversification Act of 2003?

In an effort to promote diversity of ownership, the Commission adopted an exception to the prohibition against the transfer of combinations that are grandfathered because they are in violation of the new local ownership and crossownership limits.[19] "Eligible entities" entitled to purchase such combinations are required to have $6 million or less in annual revenues in the case of radio broadcasters and $12 million or less in annual revenues in the case of TV broadcasters.[20] An estimated 88%, or 1,219 of the total number of 1,387 radio owners will qualify as

16 Estimates are based upon the membership of the National Newspaper Publishers Association and the National Association of Hispanic Publications.

17 *Report and Order* ¶ 488.

18 See note 6, *supra*.

19 *Report and Order* ¶¶ 487 and 488.

20 *Id.* ¶489. Eligible entities must also satisfy ownership control tests. The eligible entity must hold (1) 30% or more of the stock/partnership shares of the corporation/partnership, and more than 50% voting power, (2) 15% or more of the stock/partnership shares of the corporation/partnership, and more than 50% voting power, and no other person or entity controls more than 25% of the outstanding stock, or (3) if the purchasing entity is a publicly traded company, more than 50% of the voting power.

"eligible entities" under the Commission's definition.[21] The high percentage of "eligible entities" is due to high degree of ownership consolidation in the radio industry. Twelve percent, or 168, of all radio broadcasters have revenues that range from $6.2 million to $3.5 billion, while 88% have revenues from $25 thousand to $6 million. Minority radio broadcasters that are not publicly traded are estimated to comprise only 4.5% of the "eligible entities."[22] Considering the fact that the vast majority of broadcasters will be able to qualify as "eligible entities", one can hardly say that the grandfather exception is sufficiently tailored to benefit minority broadcasters who are more capable of providing diverse points of view in the news and public affairs.[23]

An effort to target "economically and socially disadvantaged businesses" ("SDBs") has been made in Senate Bill 267, the Telecommunications Ownership Diversification Act of 2003. The definition of "SDBs" parallels the ownership control tests of the FCC, but substitutes media ownership interests and advertising share for the revenue limits contained in the FCC guidelines. Specifically, Senate Bill 267 requires "SDBs" not to have an ownership interest in more than 50 radio stations, and any radio station with a combined revenue market share of 10% in any Arbitron market. In the case of television stations, "SDBs" cannot have an ownership interest in television stations with an aggregate national audience reach of more than 5%.

An analysis of the "SDBs" definition for radio stations indicates that despite the intention to tailor benefits to social and economically disadvantaged firms, 2,391 radio broadcasters[24] would qualify as "SDBs" – more than those that would qualify under the FCC's definition of "eligible entities."

Given the results of the analysis, I recommend that the Commission <u>not</u> adopt the Senate Bill 267 definition for entities entitled to acquire grandfathered combinations. To do so would only make it more difficult for minority broadcasters to be afforded the opportunity to acquire a grandfathered combination. The analysis of the FCC and Senate Bill definitions also shows that minority broadcasters, as a class, are unlikely to benefit from measures geared to small businesses for the simple reason that the vast majority of broadcasters can meet the definition of a small business. While market entry by small businesses will advance the goal of competition, the goal of diversity of viewpoint will require measures tailored primarily to minority broadcasters.

3. Do minorities pay less than non-minorities when they acquire broadcast stations?

I am not aware of situations in which a seller chose to offer a station to minorities at a lower price than the station was offered to non-minorities. Actually, minorities, like many new entrants, typically pay a premium to buy a broadcast station. They do this primarily for three reasons.

First, the financial market discriminates against minorities by forcing them to sign personal guarantees, post excessive collateral, and accept higher rates of interest.[25]

Second, sellers very often require minorities to offer more money because of the false perception that minorities are unlikely to close or due to the buyer's relative inexperience and lack of a long history of successful closings.

---

21 Data source is the BIA Media Pro database with 2002 revenues. Figures are based upon the annual revenues of the parent owner as required by SBA guidelines (*see Report and Order* n. 1044). Owners for which no parent revenues were reported in the BIA database were not included in the estimate. Assuming that parent revenues were less than $6 million for the 3,286 owners for which no parent revenues were reported, 70% of the broadcasters would qualify as "eligible entities." **Estimates do** <u>not</u> consider the FCC's ownership control tests.

22 The number of minority owners is based upon figures reported in the NTIA broadcast ownership report for 1996, adjusted for those that are now publicly traded and that earn $6 million or less in revenues (approximately 148). *Minority Commercial Broadcast Ownership in the United States*, NTIA, U.S. Department of Commerce, April 1996.

23 Notes 2 and 3, *supra*.

24 Data source is the BIA Media Pro database with 2002 revenues. Stations located outside of Arbitron markets were not included in the analysis because no market revenues needed for the calculation are reported for those broadcasters. **Estimates do** <u>not</u> consider the S. 267 ownership control tests.

25 Statistical evidence may be found in *Discrimination in Capital Markets*, p. vii. Anecdotal evidence may be *Whose Spectrum is it Anyway?* Pp. 17 – 26.

Third, simply to get their feet in the door and have brokers return their phone calls or seek them out, minorities must develop a reputation for paying generously for properties. As stated by one media buyer,

> *...[O]ur number one criteria... is can they pay for it at the closing and will they pay the most. And that kind of supersedes everything.*[26]

4. What would be the impact of major market triopolies on the national television network marketplace and on minority ownership?

The Commission's discussion of triopolies shows that it considered the impact of triopolies on the local markets in which triopolies would be permitted. However, the Commission did not consider the potential impact of its triopoly decision on competition and diversity in other local markets and on the national television programming marketplace.

In the nine markets with at least eighteen television stations apiece, it will now be possible to assemble "triopolies."[27] These markets are New York, NY; Washington, D.C.; Phoenix, AR; Salt Lake City, UT; Los Angeles, CA; Philadelphia, PA; San Francisco, CA; Boston, MA; and Dallas- Ft. Worth, TX.[28] In each of these nine markets, there is an average of eleven commercial stations that are not affiliated with one of the top ranked stations and are eligible to form triopolies. If sizable new independent television groups are to be built, the flagship stations for these groups -- or the hubs from which spokes of smaller stations will be associated regionally -- must be drawn from this critical pool of stations. By allowing these stations to be triopolized to take advantage of in-market synergies, the stations will never be able to contribute to multi-market synergies attendant to multi-city station group operations. Yet it is the station group model, rather than the duopoly or triopoly model, that carries far more public interest value. Station groups counterbalance the homogenized news and entertainment programming associated with network programming aired on the top four stations. Second, station groups provide more opportunity for upward career mobility from a company's small to large stations. Triopolies reduce local competition while not offering any of these benefits.

Furthermore, in the nine markets ripe for triopolization, there are only 54 commercial stations that are not owned and operated ("O&Os") or affiliated with one of the six major English-language networks (ABC, CBS, NBC, FOX, WB and UPN), or Paxson, Univision, Telemundo or Trinity. It is these 54 stations, and these stations only, that are the eligible candidates to serve as the core properties for any new national television network that might be created. Unless a company seeking to build a national television network is affiliated with a major film studio (*e.g.* the WB), it is essential that the company have O&Os in the top markets.[29] These O&Os form the basis for program production, for national advertising, and (because they are so profitable) for revenue generation to support the growing network before it, too, attains profitability.

The triopoly decision effectively takes these 54 independent stations off the table for a potential new network startup, and caps forever the number of major television networks at its current level. To appreciate this, recall that we had almost as many TV stations in 1985 as we have today. Yet, if the triopoly rule had been adopted in 1985, there would never have been the Fox Network and, later, UPN or WB. The reason is that ABC, NBC and CBS would have bought up the stations that could otherwise have been brought together to form competing networks and reprogrammed those stations with material complementary to, and not competitive with, ABC, NBC and CBS.

If there were a new major television network, it would probably be aimed at a major underserved audience: children and youth, minorities, or religious people (or some combination of these). The triopoly rule will make this achievement impossible.

5. How is the repeal of the Sales Solicitation Feature of the failed/failing/unbuilt station policies likely to affect minority ownership, competition and diversity?

In 1999, the Commission, for the first time, allowed the sale of failed and failing stations and unbuilt

---

26 *Whose Spectrum is it Anyway*? P. 17.

27 *Report and Order*, ¶¶ 134 and 203.

28 Bill McConnell, *FCC Does the Waive*, Broadcasting & Cable, July 7, 2003.

29 The triopoly decision effectively eliminates many of these markets because it affects 7 of the top 10 markets.

construction permits to in-market operators.[30] To avoid excluding new entrants and others whose entry to a market would preserve competition and diversity, the Commission added a layer of protection: a seller must first solicit interest from those outside the market. [31]

In adopting this "Sales Solicitation Feature," the Commission required a transfer applicant to demonstrate that the in-market buyer is the only reasonably available candidate willing and able to operate the station and that selling to an out-or market buyer would result in an artificially depressed price.[32] The "Sales Solicitations Feature" was also partly based upon the Commission's shared concern "...about new entry into broadcasting, the apparent decline in minority and female ownership of broadcast facilities, and the need to encourage broadcast ownership diversity...[33] As a safeguard to protect the goals of competition and diversity the Commission took steps to ensure that minorities and others would be afforded the opportunity to acquire a failed, failing or unbuilt station:

> *To satisfy this element of the waiver standard, applicants will be required to give public notification that the station is for sale. Thus, minorities and women interested in purchasing a station will have an opportunity to bid.*[34]

The declining number of minority-owned television stations is a problem of even greater magnitude now than it was in 1999. Yet, in dispensing with "Sales Solicitation Feature," the Commission, in its *Report and Order*, failed to explain why it departed from a policy that successfully balanced economic efficiencies with the public interest benefits attendant to increased minority ownership (*i.e.* competition and diversity). Citing to a footnote in Comments submitted by the National Association of Broadcasters ("NAB"), the Commission agreed with the unsubstantiated assertion that the economic efficiencies associated with two-station ownership will "always" be the result of an in-market transfer.[35] NAB failed to provide any evidence in support of its argument that the economic benefits of in-market transfers are "inherently unlikely" to result in broadcasters being able to find an out-of-market buyer.[36] This assertion contradicts evidence of out-or market sales that have successfully closed (e.g., the purchase of WPFO-TV, Channel 23, Portland, ME by Corporate Media Consultants Group LLC from Paxson Communications Corp. in March, 2003). The out-of-market policy ensured successful transactions by protecting buyers from artificially depressed prices.

The Commission should also not assume that economic efficiencies result exclusively from in-market combinations. Economies of scale and market synergies also result from regional combinations. Regional combinations can reduce the cost of sales operations while at the same time increase advertising though regional marketing strategies. It is also possible for regional combinations to result in the failed, failing or unbuilt stations carrying programming (e.g. Asian, Spanish language, Asian or Christian) that serve niche markets not served by other broadcasters, thus advancing the goal of diversity.

6. If a radio station is licensed to a population center, has full market coverage, and is owned as part of a cluster, how likely is it that the station will be sold?

Full market coverage stations, such as low-band AM clear channel facilities and high power FM stations licensed to population centers, are highly desirable beachfront property in the radio business. Typically, these "heritage" or "big stick" properties form the nucleus or linchpins of a cluster. They are usually programmed with a popular mainstream format such as News or News/Talk (for AM stations), MOR, rock or country/western. Their economic stability and broad general market appeal make them natural core properties for clusters.

---

30 *Review of the Commission's Regulations Governing TV Broadcasting, TV Satellite Stations Review of Policy & Rules*, 14 FCC Rcd 12903 (1999) ("*Local TV Ownership Report and Order*").

31 *Id.* at 12941. 47 C.F.R. § 73.3555, note 7.

32 *Id.*

33 *Id.* at 12936.

34 *Id.* at 12937.

35 *Report and Order*, ¶225.

36 Comments of NAB, n. 148.

A company whose business plan is based on growing clusters will never include in that business plan an option of reducing the size of the cluster by spinning off one of these core stations. While it is not always optimal to have a cluster of the maximum permissible size, it is seldom desirable to reduce the size of any cluster. If the cluster is performing poorly, the cause of that poor performance will almost never be attributable to the decision to include a full service station in the cluster. Even if the core station performs poorly within a cluster, the business solution is always to reprogram the station rather than spin it off to a competitor.

"Heritage" or "big-stick" stations are key to the success of a cluster. Therefore, there are only two occasions when these stations are assigned or transferred. One occasion arises when the parent company is sold to another company or merges with another company. In such transactions, the entire cluster is normally transferred intact. However, if both the buyer and seller own clusters in the same market, such that the combined clusters will exceed the local ownership limits, or in rare cases raise antitrust concerns that are not remediable, the parties will then need to spin off some of their stations. It is conceivable that the least profitable of the "big-stick" or "heritage" stations will be spun off in circumstances where the holdings of the merged company exceed the limits of the rules. However, these occasions arise very rarely. Only one such situation has arisen since 1999 -- the Clear Channel-AMFM merger of 2000.

* * * * *

I declare under penalty of perjury under the laws of the United States of America that the foregoing Statement is true.

Executed September 3, 2003.

Kofi A. Ofori

Kofi A. Ofori
Ofori & Associates
1821 Shepherd St NE
Washington, D.C. 20018
Phone: (202) 529-4415
Email: Ofori@att.net

ANNEX 3

EXCERPTS OF TRANSCRIPT OF HEARING:

THE IMPACT OF MEDIA CONSOLIDATION ON MINORITY REPRESENTATION AND OWNERSHIP

Wayne State University School of Law
Detroit, Michigan
Monday, May 19, 2003 - 12:00 PM

Hosted by Congressman John Conyers, Jr.

Commissioner Michael Copps
Congressman John Conyers
Professor John Arnold
Councilwoman JoAnn Watkins

Pp. 7-8: Testimony of Janine Jackson, Fairness and Accuracy in Media (FAIR)

> [C]onsolidation in the media industry has meant layoffs. It's meant mergers that have led to layoffs. Some 70,000 journalists have been laid off since June of 2000. That number is always in flux, but there are websites cropping up to actually track layoffs in the journalism industry because it's such a prominent feature of the landscape. And again, situations of scarcity of opportunity always hit those who have been historically excluded the hardest, and who continue to face discrimination. So add to that that these consolidations also mean budget cutbacks and affect the very programs, the internships, the outreach efforts and so forth that were designed to counter this historic and ongoing exclusion and discrimination....
>
> This is all against a backdrop, as we all know, in which people of color are underrepresented in the media business. A lot of numbers you could look for here, but for journalists, a recent study from Poynter [Institute] has indicated that 9.5 percent of journalists are people of color. And again, that's against 27 or 30 percent of the population....

Pp. 12-13: Testimony of Verna Green, Black Chamber of Commerce, former President, WJLB

> The challenge of consolidation, though, if you look at economic development at a local level, is that the vertical integration that results from consolidation literally wipes out some jobs that are critical at a local level. Consolidation has created some jobs at management levels that are beyond the station level. But when you look at what happens inside the station, other than the sales departments, those jobs are disappearing.
>
> There are announcers whose voices are heard all over the country and yet what that meant to the pool of potential talent to be developed, it literally has disappeared. So, it's kind of an almost now, a Catch-22 situation in that because there are such powerful announcers on morning shows that are heard all over the country, there's literally no farm team to replace them once they leave because there's no training opportunity because positions simply don't exist.
>
> There are positions that used to be held locally by announcers in some overnight positions. Those are done now with voice tracking.
>
> So you look to the industry and you admire the technological expertise and the ability to shirt down cost, so that each activity yields more and more and more profit.

But, if you considered that most of the, let's say, African American employees in the radio stations are hired by African American owners, the possibility of that talent pool growing is slim to none.

An example, at the station level now, the management decision making scope is lessened. They cannot determine which research companies to use, which research methods to use, in some cases, who handles travel, so that the local entrepreneurs who engage these opportunities, they're being shut out of these business opportunities.

So, the consequence of consolidation in terms of local economic development is negative. In terms of understanding how to develop an economic model in generating profit, consolidation is wonderful.

P. 18: Testimony of Peter Dicola, Director of Economic Analysis, Future of Music Coalition

The Radio/Television News Directors Association Foundation reported in 2001 that in the last seven years, the size of the typical radio newsroom has fallen 56.7 percent from 4.5 news people in 1994 to 1.95 today.

A newsroom with two people is bound to devote less resources to covering issues of interest to minorities, both ethnic minorities and people with minority opinions....

Pp. 44-46: Testimony of Tony Gray, President, Gray Communications

Much of my career has been centered on programming radio stations that target African American consumers across the country. And I've had the pleasure of working for some of the larger more important companies, companies that have benefitted from the deregulation of 1996. And also, I've had the pleasure of working for a number of the minority-owned and operated radio stations in the country as well.

The relationships are a a little different and I want to tell you a little bit about why I think that minority ownership is important, because I've had the experience of working for both.

In my opinion minority ownership and participation in the media is crucial because it provides an outlet that focuses on issues relevant to minorities, issues that are often neglected by networks and general market broadcasters.

In comments to the FCC, the National Association of Black Owned Broadcasters set forth ten reasons why minority ownership of stations is important.

Point No. 1, the tailored coverage of national news stories to address minority concerns.

Point No. 2, they cover major stories that are not covered by major market or general market operators.

Point No. 3, they approach news stories from a different perspective than the general market competitors.

Point No. 4, they pay special attention to public affairs programming that focuses on issues of great concern to the ethnic comp[onents of those local markets.

Point No. 5, [they devote] a greater effort to covering local government issues, local elections, things of that nature.

Point No. 6, they pay special attention to issues concerning women.

Point No. 7, broadcasting in languages other than in English, especially Hispanic programmed stations.

Point No. 8, they have staffs on public affairs programs that include minority employees.

Point No. 9, they use call-in formats to allow audience participation.

Point No. 10, they participate in minority-related events in their communities.

Now beyond these points that were covered by the National Association of Black Owned Broadcasters, I'd like to add a couple of points[.] Black radio has played a key role in increasing black voter registration across this country. They've had a major impact on electing African American elective officials across America.

In two markets where I've worked, I've witnessed the election of the first African American mayors in the cites of New York and Chicago. And that would not have happened without black-owned radio stations in those markets.

* * * * *

ANNEX 4

Minority And Nonminority Commercial Radio
Owners' Holdings In The Top 50 Markets

David Honig
Executive Director
Minority Media and Telecommunications Council

September 4, 2003

A community of license designation to a market's dominant commercial center is usually highly desired, since it typically ensures full market coverage and mainstream advertiser acceptability.1/

Using the BIAfn Radio Yearbook (First Edition, Spring, 2003) we examined the holdings of commercially operated minority owned and nonminority owned stations2/ in the top 50 radio markets.3/ We used MMTC's internal database of minority owners (last updated May, 2003) to break out the FCC-licensed4/ commercial stations5/ in each market into eight categories:

1. Nonminority owned FM in a market's dominant commercial center
2. Nonminority owned FM not in a market's dominant commercial center
3. Minority owned FM in a market's dominant commercial center
4. Minority owned FM not in a market's dominant commercial center
5. Nonminority owned AM in a market's dominant commercial center
6. Nonminority owned FM not in a market's dominant commercial center
7. Minority owned FM in a market's dominant commercial center
8. Minority owned FM not in a market's dominant commercial center.

1/ In some cases, a high powered facility with another license designation may have similar value (e.g. Arlington, TX, located roughly midway between Dallas and Ft. Worth) but these situations are fairly rare and should not materially impact our analysis.

2/ Minority owned stations included those held by two public companies controlled by minorities (Radio One and Radio Unica) but not those in a minority-managed public company in which legal control is not held by minorities (Entravision Communications) or in a number of nonminority managed companies (publicly held or privately held) largely targeting minority consumers (Mega Communications, Hispanic Broadcasting Corporation, and Univision Communications). We note, however, that some of these companies, like minority owned companies, appear to have encountered difficulties in securing full power stations licensed to major population centers.

3/ The source for our data was BIAfn's Radio Market Report (First Edition, Spring, 2003).

4/ Our analysis excluded Canadian and Mexican stations (those with "C" or "X" calls). One commercial station was excluded because it is owned by a municipality (which has no race).

5/ Thus, we excluded from our analysis six stations licensed to public broadcasters.

We treated each market as having one and only one dominant commercial center. Thus, in hyphenated markets, the dominant communities were, respectively, Dallas, Houston, Miami, Seattle, Minneapolis, Tampa, Riverside, Salt Lake City, Milwaukee, Providence, Charlotte, Norfolk, Greensboro, Raleigh and West Palm Beach. We did not include stations in two county-based markets in which there is no dominant commercial center (Nassau-Suffolk and Middlesex-Somerset-Union). We also did not include Puerto Rico, which for allotment purposes is really several sub-markets although it is a single market for commercial purposes. Stations listed by BIAfn in more than one market were counted only in the market containing their community of license. Stations with hyphenated (multi-community) allotments were treated as belonging to the larger of these communities.

The results are given in the tables below.

Table 1

Minority and Nonminority Commercial FM
Station Owners' Holdings In The Top 50 Markets

Market	Nonminority Owned Stations		Minority Owned Stations	
	Licensed to Dominant Community	Licensed to Other Community	Licensed to Dominant Community	Licensed to Other Community
New York City	10	28	2	3
Los Angeles	14	13	2	8
Chicago	14	28	0	4
San Francisco	15	21	0	4
Dallas-Ft. Worth	5	29	1	1
Philadelphia	13	1	0	2
Houston-Galveston	9	13	2	1
Washington, DC	7	14	2	1
Boston	7	18	0	1
Detroit	13	5	2	1
Atlanta	7	17	0	4
Miami-Ft. Laud.-Holly.	6	10	0	3
Seattle-Tacoma	11	9	0	0
Phoenix	6	19	0	0
Minneapolis-St. Paul	4	15	0	1
San Diego	11	7	0	0
Baltimore	7	7	1	1
St. Louis	7	17	0	1
Tampa-St. Petersburg	4	10	0	1
Denver-Boulder	9	8	0	0
Pittsburgh	10	10	0	2
Portland, OR	9	7	0	0
Cleveland	9	3	2	0
Cincinnati	7	14	0	1
Sacramento	8	11	1	2
Riverside-San Bernadino	2	8	0	7
Kansas City	8	8	1	2
San Jose	3	6	0	0
San Antonio	9	10	0	1
Salt Lake City-Ogden	7	17	0	0
Milwaukee-Racine	6	11	2	0
Providence-War.-Paw.	5	11	0	0
Columbus, OH	5	14	2	1

Table 1 (continued)

Minority and Nonminority Commercial FM
Station Owners' Holdings In The Top 50 Markets

Market	Nonminority Owned Stations		Minority Owned Stations	
	Licensed to Dominant Community	Licensed to Other Community	Licensed to Dominant Community	Licensed to Other Community
Charlotte-Gast.-Rock H.	4	10	0	1
Orlando	5	6	0	0
Las Vegas	9	13	0	0
Norfolk-Va. B.-N. News	7	10	0	1
Indianapolis	7	9	1	2
Austin	5	13	0	1
Greensboro-W.S.-H.Pt.	2	13	0	0
New Orleans	7	10	0	1
Nashville	5	18	0	0
Raleigh-Durham	4	8	0	4
West Palm Beach-B.R.	3	11	0	0
Memphis	6	17	0	0
Hartford-N.B.-Midd.	6	7	0	0
Jacksonville, FL	6	10	0	3
TOTAL	343	554	21	66
Percent of Nonminority Owned Stations	38.2%	61.8%	--	--
Percent of Minority Owned Stations	--	--	24.1%	75.9%

Table 2

Minority and Nonminority Commercial AM
Station Owners' Holdings In The Top 50 Markets

Market	Nonminority Owned Stations		Minority Owned Stations	
	Licensed to Dominant Community	Licensed to Other Community	Licensed to Dominant Community	Licensed to Other Community
New York City	9	19	5	2
Los Angeles	8	17	2	7
Chicago	11	11	1	4
San Francisco	8	13	2	5
Dallas-Ft. Worth	4	18	0	4
Philadelphia	9	11	2	3
Houston-Galveston	8	9	3	6
Washington, DC	5	14	2	5
Boston	8	26	1	2
Detroit	5	12	1	1
Atlanta	10	24	1	8

Table 2 (continued)

Minority and Nonminority Commercial AM
Station Owners' Holdings In The Top 50 Markets

Market	Nonminority Owned Stations		Minority Owned Stations	
	Licensed to Dominant Community	Licensed to Other Community	Licensed to Dominant Community	Licensed to Other Community
Miami-Ft. Laud.-Holly.	6	9	3	9
Seattle-Tacoma	11	19	0	6
Phoenix	8	10	3	0
Minneapolis-St. Paul	4	19	0	0
San Diego	5	5	2	0
Baltimore	8	8	2	0
St. Louis	8	17	0	1
Tampa-St. Petersburg	3	17	1	3
Denver-Boulder	8	12	2	0
Pittsburgh	7	19	0	3
Portland, OR	9	17	0	1
Cleveland	5	8	3	0
Cincinnati	5	6	2	0
Sacramento	6	8	1	2
Riverside-San Bernadino	1	9	0	3
Kansas City	7	10	2	0
San Jose	2	2	2	1
San Antonio	9	7	3	3
Salt Lake City-Ogden	6	15	0	2
Milwaukee-Racine	5	6	1	3
Providence-War.-Paw.	4	14	0	1
Columbus, OH	5	6	1	0
Charlotte-Gast.-Rock H.	5	20	1	0
Orlando	5	0	0	8
Las Vegas	6	6	0	0
Norfolk-Va. B.-N. News	5	11	0	3
Indianapolis	6	3	1	0
Austin	2	5	1	4
Greensboro-W.S.-H.Pt.	5	21	0	1
New Orleans	10	5	1	1
Nashville	7	17	0	0
Raleigh-Durham	5	15	0	3
West Palm Beach-B.R.	3	11	0	2
Memphis	8	12	1	0
Hartford-N.B.-Midd.	3	10	0	2
Jacksonville, FL	12	6	1	0
TOTAL	299	560	54	109
Percent of Nonminority Owned Stations	34.8%	65.2%	--	--
Percent of Minority Owned Stations	--	--	33.1%	66.9%

There are not statistically significant differences in the community of license designations of minority vis-a-vis nonminority AM stations.

Minority owned FM stations' community of license designations are substantially less attractive than those of nonminority owned FM stations. In particular, only 24.1% of the minority owned stations were licensed to *the dominant community in the market*, while 38.2% of the nonminority owned stations were licensed to the dominant community in the market. Thus, minority owned stations were only 63% as likely to be licensed to the dominant community in the market as were the nonminority owned stations in the same markets. A chi-square analysis showed statistical significance at well below the 0.01 level.

* * * * *